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ABSTRACT

*Sociologists bring a unique perspective to the study of the processing of con-
flicts. They may be experts in substantive areas in which alternative dispute reso-
lution (ADR) techniques are used as well as experts in process such as getting
the parties to the table and keeping them there to discuss the issues. Sociologists
are also trained to observe social interactions and remain neutral in their anal-
yses of what they observe. The authors discuss the contributions that sociologists
can make in the study of ADR, including theoretical, research, and critical works
on conflict resolution process.*

Introduction

From the time of Louis Wirth until the present, sociologists have written
about conflict. Over the years, sociology as a discipline has demonstrated
its unique perspective in conflict theory, practice, and research. In recent
years, however, unprecedented interest in the study of conflict and its reso-
lution has emerged. The articles in this volume of *Sociological Practice* are
a sample of some of these developments and how the sociological perspec-
tive is applied to analyze conflict in a variety of social settings, with

special attention given to conflict resolution. Conflict resolution can mean either the reduction, management, processing or settling of differences between people.

Conflict Resolution

Resolving conflicts is best understood as lying on a continuum ranging from avoidance to annihilation.

<div align="center">Conflict Resolution Continuum</div>

Avoidance———————————————————————Annihilation

Circumstances determine whether either of these extremes, or some point between them, is an acceptable way of resolving conflicts. Of the two, avoidance is clearly the more common and acceptable resolution style. For instance, individuals routinely terminate relationships, withdraw, or move away to avoid further destructive interaction with those with whom they disagree. On the other hand, while annihilation may be considered an acceptable way of resolving conflicts, it usually happens in very limited and specific circumstances such as war and defensible homicide. Moreover, such actions are likely to be more scrutinized than avoidance behavior.

Between avoidance and annihilation, the range of other conflict resolution processes is great; they can be either formal or informal, expensive or inexpensive, coercive or non-coercive. In some, only the disputing parties are involved, while in others third parties assist in resolving differences. Although difficult to empirically verify, a large number of disagreements are resolved by disputing parties themselves. What parties usually do is reach an understanding regarding their differences by communicating with one another. This exchange process, albeit quite varied depending on who and what is involved, is known as negotiation. Parties go back and forth with the hope of reaching an understanding between them.

Negotiation

A commonly heard overgeneralization is that everyone negotiates and everything is negotiable. In reality, not everyone negotiates optimally and not everything can be negotiated easily. Yet, negotiation is a common process utilized daily by everyone and is the subject matter of a sizeable and ever growing body of literature.

While many frameworks help us understand negotiation, two major ones dominate: competitive and collaborative negotiation. The goal of a person negotiating competitively is to win at all costs. On the other hand, collaborative negotiation instructs disputing parties to consider mutual interests and explore creative ways in which both can win. This approach often requires considerable effort by disputing parties involved. However, it is viewed as a more satisfying way to resolve conflicts.

Despite differences in negotiating styles, effective communication, including good verbal and nonverbal skills as well as active listening, resourcefulness, openmindedness, and understanding of the other side's position are central to all negotiation efforts. When disputants either cannot or will not continue to interact with each other, negotiations reach an impasse. At that point, if they do not opt for avoidance, disputing parties may choose to participate in a variety of dispute processes depending on variables such as the nature of the dispute and the availability of processes.

Negotiation Impasse and Beyond

Third party intervention processes are often used to move parties beyond impasses. In some, such as mediation and conciliation, the third parties work with the disputants in the hope of having the parties themselves reach an acceptable solution to their problems. In others, such as arbitration and adjudication, third parties make decisions for the disputants. In addition, a number of other conflict resolution processes have emerged where innovative approaches use variations of the aforementioned, including med-arb, the use of an ombudsman, fact-finding, summary jury trial and the mini trial. These approaches are widely referred to as alternative dispute resolution (ADR) processes.

Alternative Dispute Resolution Processes

Mediation

Mediation is an innovative dispute resolution process gaining widespread acceptance and even institutionalization. It is a relatively short-term, structured, goal oriented, participatory intervention process in which the mediator helps the disputing parties reach a workable solution to their differences.[1] Beyond this, there are very few hard and fast rules about mediation. As it gains popularity and increasing institutionalization, departures

from the ideal are widespread. For instance, while mediation is typically engaged in voluntarily by participants who agree to work with a third party to reach a mutually satisfactory agreement in an informal, private fashion, in selected settings parties are mandated to try mediation (SPIDR 1991). Similarly, while a major premise of the mediation process is that the parties themselves will control the decision making since the third party does not have the authority to impose a decision on them, in some settings mediators are asked to make recommendations.

Mediation practice varies considerably with the style and skill of the mediator, the context within which the mediation is conducted, past relationships between the parties involved, their negotiating styles, and the nature of the issue being mediated. (Folberg and Taylor 1984; Moore 1986) Generally, however, mediation does involve face-to-face sessions with the parties. Whether or not the mediator meets separately with individual parties in individual sessions depends on some of the above variables. Regardless of format, it is common for mediators to ensure confidentiality of the sessions, both those held with all parties jointly and those held with each party separately. In some selected settings, however, confidentiality is not provided.

While the activities of the mediator have been portrayed in a variety of ways, certain activities are recognizable in most mediations. The mediator works with the parties to gather relevant information, frame the issues, isolate points of agreement and disagreement, generate alternatives, and consider compromises for possible future agreement. In addition to assisting the parties to negotiate, a mediator may be asked to assume other roles depending on the circumstances. Stulberg (1987, 31-37) suggests that the following are particularly important: chairperson, communicator, educator, translator, resource expander, agent of reality, guardian of durable solutions, scapegoat and protector of the process. It is widely acknowledged that central to all mediation work are numerous skills, many which are similar to those of the negotiator, such as the good communication and listening skills. Stulberg (1987, 37-41) lists the following characteristics and skills: neutral, impartial objective, intelligent, flexible, articulate, forceful and persuasive, empathetic, effective as a listener, imaginative, respected in the community, skeptical, able to gain access to resources, honest, reliable, nondefensive, having a sense of humor, patient, persevering, and optimistic. Some of these can be taught with ease, others are extremely challenging. For example, how does one teach optimism?

Although widespread education and training in mediation is rapidly growing, ranging from brief workshops to elaborate academic course work, it continues to be uneven at the present time. This is complicated by the

fact that mediators do not currently have to comply with any uniform standards for training or practice. Furthermore, a curriculum of suitable theoretical, substantive and skills knowledge is just now beginning to materialize.

In response to rampant concerns about who is doing mediation and increasing legislation efforts to identify suitable credentials, the Society of Professionals in Dispute Resolution (SPIDR) created a Commission on Qualifications to study these concerns. The Commission rejected academic degree credentials as a means of screening competent mediators and strongly recommended performance based criteria (see SPIDR 1989).

Other Alternative Dispute Resolution Approaches

Not all conflicts can be worked out by the parties, however. When disputants are unable or unwilling to continue their negotiations and do not or cannot participate in mediation, there are a variety of additional dispute resolution processes from which to choose. The other primary ADR processes using third parties are arbitration and adjudication.

Adjudication is generally the standard against which all of the other dispute resolution efforts are measured, since it is the basis of our legal system. Disputants are pitted against each other in a highly structured public setting governed by rigid rules. They present their facts, usually through an attorney, to the judge or jury and await a decision that is binding on them. It is the quintessential win-lose process.

Arbitration is similar to adjudication since disputants also present their facts to the arbitrator who will make a decision. There are a few major differences. In arbitration, the rules of evidence and procedure are relaxed, precedence is disregarded and sessions are often presided over by experts in private settings. Depending on the case, disputants may select their arbitrators and set the ground rules. Although arbitration decisions are generally binding, they can be nonbinding. Depending on the nature of the dispute, arbitration may be either voluntary or compulsory for disputants. The latter is often referred to as court annexed arbitration.

Newer hybrid processes such as med-arb, using an ombuds, fact-finding, summary jury trials and minitrials are not as well known. On a mediation-adjudication continuum, they fall somewhere in between. Med-arb is a combination of mediation and arbitration. Initially, parties work through their differences with the assistance of a mediator. If they are unable to settle, their disagreement is subjected to arbitration. The dispute resolution setting determines how med-arb is done. In some instances, the person who

serves as mediator assumes the role of arbitrator and renders a decision based on the information s/he has received. Elsewhere, the case is adjourned, and a different person assumes the role of arbitrator. Shifting roles from mediator to arbitrator is not without its critics.

An ombuds is a third party who investigates complaints in an organizational setting. Dispute resolvers are employed by the organization in which they handle complaints, raising issues of maintenance of neutrality, impartiality, and confidentiality.

Fact finders are third parties who collect vital information for disputants and usually present a recommendation as part of a report, for example.

Summary jury trials and mini trials are most like the courtroom setting. They have emerged as expedient alternatives to resolve otherwise lengthy and costly court litigation. Each involves the presentation of an abbreviated argument and evidence that would otherwise be presented in court. In a summary jury trial, a mock jury selected from the regular juror pool is assembled with a presiding judge and asked to render an advisory verdict based on the evidence. Disputants are subsequently encouraged to reach a settlement in light of the advisory verdict.

Minitrials give managers in large corporations an opportunity to hear abbreviated presentations by their respective legal counsel in private settings. With the assistance of a neutral third party advisor, frequently a retired judge or expert attorney, the decision-makers meet to work out a solution. Should they reach impasse, the neutral advisor is enlisted to play a more active role as mediator or arbitrator.

Alternative Dispute Resolution and Sociology: Some Observations

While ADR is not new and has a long history in the resolution of labor and international disputes, in the last twenty years, sociologists have practiced and conducted intensive research studies in areas of sociological interest such as family, divorce, environment, corporate settings, communities, and schools.

Sociologists as Substantive Experts

ADR work involves knowledge about substance as well as process. In order for a dispute resolver to work in an informed fashion, it is helpful to be knowledgeable about both. Because ADR is expanding into new areas that require substantive knowledge, sociologists who specialize in a specific area may be especially qualified to serve as dispute resolvers in that

area or to contribute to the emerging theoretical and substantive knowledge base about these processes, as some sociologists have done already for mediation (e.g. see Moore 1986). Because ADR draws from many disciplines (e.g. law, psychology, social work), sociologists can make their presence felt where they have expertise. For instance, dispute resolvers are continually confronted with cross cultural disagreements. Sociologists who understand the nature of differences between members of diverse ethnic and racial groups can provide insight on the world-views of different groups. Similarly, better understanding of power differentials between disputants would markedly enhance ADR efforts.

Sociologists as Process Experts

The diverse nature of their education and training prepares sociologists well to address not only the substantive, but also the process component of ADR. Dispute resolvers are concerned with a number of processes, including getting the parties to the table, explaining the particular ADR process be used, keeping parties in place to discuss their differences, listening carefully, asking questions, and helping parties leave with a workable solution. Laue (1986, 6), for example, notes that sociologists' "understanding of entry problems in field work or participant observation research can provide a beginning." More specifically, sociologists are trained to observe, interview, understand, listen, maintain objectivity, and to consider both foreseen and unforeseen implications of actions. This is particularly true of those trained in participant observation and other field methods. Sociologists also understand the dynamics of communities and small groups, particularly of the dyads and triads, common during some ADR processes. In addition, sociologists are sensitive to the importance of values when researching, studying, and working with others. This is of particular concern to any dispute resolver for whom neutrality and impartiality are a major concern.

Professionalization

At major national conferences around the country, recurrent forums and discussions are conducted about the professionalization of dispute resolvers. The Society of Professionals in Dispute Resolution has created a Commission on Qualifications and an Ethics Committee to identify some

of the professional concerns of neutrals. Issues of professionalization have also surfaced in the emerging literature (e.g. see Pipkin and Rifkin 1984; Coulson 1984). For those sociologists interested in the sociology of professions, dispute resolvers are rapidly emerging as a new group of professionals.

Research Possibilities

At the present time, much remains to be learned about resolving conflicts. For sociologists interested in conducting research, ADR provides a splendid opportunity to study new dispute resolution processes (Kressel et al. 1989). Other sociologists may base research questions on their substantive area of expertise. For instance, sociologists interested in the sociology of the family may consider researching the uses of mediation along the family life cycle. Adversarial processes, as part of the American dispute resolution scene, have been central to much of the sociological research in such areas as the sociology of law, criminal justice, organizations and bureaucracies.

Dispute Resolution from a Sociological Perspective

The articles in this special issue emphasize how the sociological perspective is applied to a range of social problems. In the first article, Volpe and Bahn address a key issue for sociological practitioners, resistance of clients to the mediation process. While the article's focus is one in which most of the literature cited has been written by mental health professionals, the reader can cull from the article sociological concepts and processes. Overcoming resistance, according to the authors, requires insight into situational factors and the meaning attached to them. Understanding how organizations function and process their clients is also helpful. Through education, an understanding of how groups interact with one another, and awareness of other groups to call upon in a community for help can overcome resistance. Sociologists as practitioners have a keen understanding of societal, community, and group structure and process. All this is crucial information for overcoming resistance in clients. In addition, sociologists can add to the growing body of literature concerned with the sources and cures for resistance of ADR clients.

In the next three articles, the authors examine ADR processes as they relate to family issues. It is important to note that sociologists have histor-

ically made notable contributions in any discussion of family issues and that the sociological archives are resplendent with examples of works by family sociologists. The Mathis and Whinery study in this volume examines whether mediating custody and visitation is appropriate in families with a history of spouse abuse. The authors call for understanding the many dimensions of family functioning of which spousal violence may be only one dimension. Mediation was not effective in families where violence was integrated into the family system in the past; in other words, families exhibiting chronic violence. The family systems approach, long used by sociological practitioners, illuminates the empirical findings in this study. In systems in which a pattern of violence is entrenched intervention is difficult. Thus, mediation may work in the family system when there is no pattern of violence as compared to sporadic violence. The authors suggest an integrated treatment approach might be the key to using mediation in chronically violent families. That is, using mediation as one of many treatment modalities.

Kassebaum and Chandler study norm centered negotiation, a decision making process found in child protective work. Because most information about child abuse is ambiguous, coming sometimes from the abusers themselves, child protection case workers must use negotiation. Case workers negotiate with parents to get information and with agencies to work out a service plan for the family. Social systems, however, are often impenetrable to outsiders. Certainly, a case worker is an outsider to a family system in which abuse occurs, as well as an outsider to other government agencies commonly relied upon to provide services for the family. Understanding how to break down the barriers and intervene in the system is important. Kassebaum and Chandler suggest learning to negotiate is an important skill for sociological practitioners. What is more important, is that negotiation opens up the system for intervention. Negotiation is a powerful communication technique, and, if properly done brings parties to the bargaining table. Groups and organizations become impenetrable to outsiders as a defensive technique. Negotiation breaks this down if prior to negotiation all the parties are convinced there is something to be gained by going to the table. In the Kassebaum and Chandler study, it is clear that fear of prosecution, an ambiguous situation, and agency impotency in family abuse matters gives all parties something to bargain about.

Taking the theme of the relationship between the family and an official system, and the role of ADR in another direction, Mastrofski studies power imbalances between disputants in a special education mediation project. Irreversible power imbalances are said to be important determinants of whether to use an ADR process or not, particularly if the ADR process is

informal and does not protect each party equally. Mastrofski finds a significant degree of satisfaction with mediating special education matters. When groups varying in power negotiate with one another, the outcome may be unfair. What the author suggests is we need to understand the significance of power differences for negotiating. Further research will reveal whether power differences are significant or not in the negotiating process and what power differences are significant. Sociological theory about political power should motivate future research. Currently, ADR literature does not draw on the rich history of political theory from a sociological perspective.

Conflict in the work place is the topic of the next article in this issue. Gwartney-Gibbs thinks the study of industrial justice should be updated to account for the increasing number of females in the work place. Studies of employment differentials between women and men have done little to increase the understanding of the relationship between dispute resolution in the work place and gender inequality. Gwartney-Gibbs argues the origins, processes, and outcomes of dispute resolution are patterned by work structures. Gender role theory and organization theory underlie the analysis in this article. For practitioners either mediating work place conflicts or negotiating on behalf of women, it is essential to understand the social structure of the work place as well as the centrality of gender role expectations to the origins, processes, and outcomes of conflict resolution.

Hyman, Shingler, and Miller study the complaints consumers have in the organizations against whom the complaints are made. The approach in this article is similar to approaches in the previous articles; that is, conflict does not occur in a vacuum but rather, to be understood, conflict must be considered in a larger context. In this article, the conflict is considered in the context of the larger organization processes that produce the conflict. The parties to the conflict are not considered isolated from one another but part of a total conflicted system. Therefore, consumer complaints are total organization indicators and should impact on organizational policy. In any conflicted system, each party with an interest in the outcome of the resolution must have some say in how the conflict is resolved. Sociologists can apply their understanding of organizations, groups, and conflict to help generate solutions to organizational conflict in which the organization is the larger conflict system rather than the official organization against which a consumer files a complaint.

The final four articles focus on those kinds of conflicts where simple exchanges across the table are for the most part insufficient. While all conflicts are challenging in their own way, some are clearly more challenging and difficult to process than others. Those which are intractable or deep rooted are less likely to readily respond to more conventional intervention

skills and techniques used by dispute resolvers. Many of these conflicts involve differences over such concerns as values, beliefs, and principles which disputants are not able or willing to trade off on. Often contributing to the intractability are strong feelings and emotions as well as abundant past experiences. Moreover, the parties may even feel perfectly comfortable inflicting protracted pain on the other side.

The processing of deeply entrenched conflicts notes Volpe (1990, 7) "is like the peeling of an onion with many layers. If one stops peeling after the first few layers, for whatever reason, one does not see what the core is like. Although all the layers contribute to the whole onion, at first we see only the outer skin. As the peeling progresses, the inner layers become more evident." Deeply entrenched conflicts demand that we deal with more than the presenting problem and consider what lies beneath it. Volpe (1990, 7) suggests that "rather than thinking short term intervention, one must think about protracted, creative problem solving." The articles included in this volume offer us an excellent overview of the kinds of concerns confronted by those involved in processing deeply entrenched conflicts.

Kriesberg's contribution addresses critical research and policy questions about intractable conflicts and how they are transformed. He notes that such conflicts are multidimensional and that any categorization must reflect such concerns as who the adversaries are, the social systems within which they contend as well as the issues being contended. Kriesberg points to the need for further research on intractable conflicts as well as attention to policy implications particularly with respect to (1) how intractability is defined (2) what causes intractable conflicts and (3) how such conflicts are transformed.

The next article by Laue moves us not only from a more theoretical discussion about the processing of deep rooted conflicts but challenges us to consider how one goes about getting parties to the table. The "table" is used as a metaphor for the forum parties employ to engage in negotiation and joint problem solving processes. Central to this article is the notion that there are profound obstacles in getting parties to the table. Laue painstakingly outlines a myriad of concerns, strategies and techniques that either have been used in actual situations or could be used in bringing parties to the table. All too often the preliminary work addressed in this article is neglected by dispute resolvers.

The final two articles written by non-sociologists offer us in-depth analyses of two deeply entrenched and formidable conflict situations. While the substantive issues differ, both conflicts involve strong values, beliefs and feelings which the disputants were not prepared to compromise.

The first article by Salem, the former Midwest regional director of the Community Relations Service of the United States Department of Justice,

examines the intervention efforts he and others used while handling a dispute over a proposed demonstration by Nazis in Skokie, Illinois, a predominantly Jewish suburb of Chicago. Although the potential for violence was great and the possibility of successfully mediating the conflict was small, the matter was settled without a major confrontation. Salem discusses what contributed to the successful outcome.

The second, by Wahrhaftig and Assefa, focuses on the MOVE crisis in Philadelphia. Although most of the country heard about MOVE for the first time when a rowhouse was bombed in Philadelphia by the police on 11 May 1985, the conflict the police were attempting to resolve in fact had a long history. For nearly a decade, MOVE, a back to nature group, had been engaged in many conflicts with neighbors and city officials. In virtually all instances, varied attempts were made to intervene, both formally and informally by countless individuals in disparate capacities. Though the intervention efforts of many were obscured by the attention given to the momentous police action, the authors remain committed to the notion that conflict situations such as those experienced by MOVE can benefit from skillful conflict intervention despite the sense of frustration and hopelessness.

Conclusion

This volume is a first effort to collect relevant works of interest to sociologists which reflect the growing attention given to the emerging field of conflict resolution. Countless issues which would benefit from a sociological examination have yet to be studied. And, as acceptability and institutionalization of ADR processes expand, interest in works drawing upon a sociological perspective will increase.

We hope that sociologists will continue to generate theoretical, research, and critical works on conflict resolution processes. The potential for sociologists, particularly for those interested in clinical or applied areas, is vast and still largely untapped

NOTE

1. A less active involvement by the third party intervenor is often referred to as conciliation. Examples are instances when the third party arranges for the disputing parties to meet at a designated time or place or when the third party shuttles information between the parties.

REFERENCES

Coulson, R. (1984). *Professional mediation of civil disputes*. New York, NY: American Arbitration Association.

Folberg, J. & Taylor, A. (1984). *Mediation: A comprehensive guide to resolving conflicts without litigation*. San Francisco: Jossey-Bass.

Kressel, K., Pruitt, D. & Associates (1989). *Mediation research: The process and effectiveness of third party intervention*. San Francisco: Jossey-Bass.

Laue, J. (1986). Getting to the table. *Clinical Sociology Newsletter, 8*(6), 5-6.

Moore, C. (1986). *The mediation process: Practical strategies for resolving conflict*. San Francisco: Jossey-Bass

Pipkin, R. & Rifkin, J. (1984). The social organization in alternative dispute resolution: Implications for professionalization of mediation. *Justice System Journal, 9*, 204-227.

Society of Professionals in Dispute Resolution (SPIDR) (1989). Qualifying neutrals: The basic principles. Washington, DC: SPIDR.

Society of Professionals in Dispute Resolution (SPIDR) (1991). Mandated participation and settlement coercion: Dispute resolution as it relates to the courts Report #1 of the Law and Public Policy Committee of the Society of Professionals in Dispute Resolution. Washington, DC: SPIDR.

Stulberg, J. (1987). *Taking charge, managing conflict*. Lexington, MA: Lexington Books.

Volpe, M. (1990). Beneath the tip of the iceberg: Understanding deeply entrenched conflict. *SPIDR Newsletter, 14*(1), 7.